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May 9, 2007

VIA ELECTRONIC FILING

The Honorable Sue L. Robinson
 J. Caleb Boggs Federal Building
 844 King Street
 Wilmington, DE 19801

Re: Callaway Golf Company v. Acushnet Company
C.A. No. 06-91-SLR

Dear Chief Judge Robinson:

I am writing as counsel for defendant Acushnet Company with regard to Your Honor's request that the parties designate relevant sections of Dr. David Felker's March 9, 2007 deposition transcript for consideration in the Court's determination on plaintiff's motion to disqualify Dr. Felker (D.I. 84). Consistent with Acushnet's understanding of Your Honor's request, Acushnet planned to submit a simple joint letter to the Court containing lists of the parties' respective transcript designations. Plaintiff, however, demanded that it be able to include argumentative "context" to each of its designations. Though Acushnet objected to the addition of plaintiff's "context," Acushnet offered to compromise by agreeing to a joint submission with argumentative headings for the various categories of transcript designations. Again, plaintiff would not budge.

As such, to avoid further delay in getting to Your Honor a copy of the relevant transcript (expert discovery being scheduled to begin on May 30), and consistent with Acushnet's understanding of what the Court requested, Acushnet submits for the Court's consideration the following list of designations from Dr. Felker's deposition – presented in the form of Acushnet's latest compromise offer to plaintiff:

- 1. Dr. Felker's Employment with Callaway and Subsequent Agreements with Callaway Do not Prevent Him from Consulting with Acushnet (Acushnet's Brief at 4 and 17):** *See* Felker Depo. Tr. at 17:1-31:10.
- 2. Dr. Felker Does not Recall Seeing Any Opinions Regarding Patents Related to the Patents-in-Suit:** *See* Felker Depo. Tr. at 37:18 – 42:17.
- 3. Dr. Felker Does not Recall Seeing the '831 Patent or any Analysis of that Patent (Acushnet's Brief at 11):** *See* Felker Depo. Tr. at 49:18 – 51:22.

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4. Dr. Felker Does not Recall Discussing the '831 Patent with Anyone at Callaway and Does not Know What Callaway's Positions Regarding Validity or Infringement of that Patent Were (Acushnet's Brief at 11): *See* Felker Depo. Tr. at 53:1 – 54:1.

5. Dr. Felker Does not Recall Reviewing the Patents-in-Suit as Part of his Employment With or Consultations With Callaway: *See* Felker Depo. Tr. at 55:2 – 58:21.

6. Dr. Felker Can Render an Opinion as to Infringement of or Validity of the Patents-in-Suit Without Using any Confidential Information He Learned from Callaway: *See* Felker Depo. Tr. at 59:16 – 60:22.

7. Dr. Felker has Already Invested Several Hundred Hours Studying the Accused Products (Acushnet's Brief at 22): *See* Felker Depo. Tr. at 61:6 – 62:19.

Counsel are happy to provide additional information regarding the foregoing designations if Your Honor believes such information would be helpful.

Respectfully submitted,

/s/ Richard L. Horwitz

Richard L. Horwitz

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Enclosures

cc: Clerk of the Court (via hand delivery)
Counsel of Record (via electronic mail)